

(B) Conferences or other communications on behalf of another with officers or employees of BXA for the purpose of soliciting or expediting approval by BXA of applications for export licenses or other documents, or with respect to quotas, allocations, requirements or other export control actions, pertaining to matters within the jurisdiction of BXA;

(C) Participating on behalf of another in any proceeding pending before BXA; and

(D) Submission to a customs official on behalf of another of a license or Shipper's Export Declaration or other export control document.

(iv) *Proceedings.* All proceedings under this Administrative Order shall be conducted in the same manner as provided in part 766 of the EAR.

(2) *Employees and former employees.* Persons who are or at any time have been employed on a full-time or part-time, compensated or uncompensated, basis by the U.S. Government are subject to the provisions of 18 U.S.C. 203, 205, and 207 (Pub. L. 87-849, 87th Congress) in connection with representing a private party or interest before the U.S. Department of Commerce in connection with any export control matter.

PART 738—COMMERCE CONTROL LIST OVERVIEW AND THE COUNTRY CHART

Sec.

738.1 Introduction.

738.2 Commerce Control List (CCL) structure.

738.3 Commerce Country Chart structure.

738.4 Determining whether a license is required.

SUPPLEMENT NO. 1 TO PART 738—COMMERCE COUNTRY CHART

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420, 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 3201 *et seq.*; 6004; 42 U.S.C. 2139a, 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 201, Pub. L. 104-58, 109 Stat. 557 (30 U.S.C. 185(s), 185(u)); E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

SOURCE: 61 FR 12756, Mar. 25, 1996, unless otherwise noted.

§ 738.1 Introduction.

(a) *Commerce Control List scope.* (1) In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL) within

the Export Administration Regulations (EAR), which includes items (i.e., commodities, software, and technology) subject to the export licensing authority of BXA. The CCL does not include those items exclusively controlled for export or reexport by another department or agency of the U.S. Government. In instances where agencies other than the Department of Commerce administer controls over related items, entries in the CCL contain a reference to these controls.

(2) The CCL is contained in Supplement No. 1 to part 774 of the EAR. Supplement No. 2 to part 774 of the EAR contains the General Technology and Software Notes relevant to entries contained in the CCL.

(b) *Commerce Country Chart scope.* BXA also maintains the Commerce Country Chart. The Commerce Country Chart, located in Supplement No. 1 to part 738, contains licensing requirements based on destination and Reason for Control. In combination with the CCL, the Commerce Country Chart allows you to determine whether a license is required for items on the CCL to any country in the world.

§ 738.2 Commerce Control List (CCL) structure.

(a) *Categories.* The CCL is divided into 10 categories, numbered as follows:

- 0—Nuclear Materials, Facilities and Equipment and Miscellaneous
- 1—Materials, Chemicals, "Microorganisms," and Toxins
- 2—Materials Processing
- 3—Electronics
- 4—Computers
- 5—Telecommunications and Information Security
- 6—Lasers and Sensors
- 7—Navigation and Avionics
- 8—Marine
- 9—Propulsion Systems, Space Vehicles and Related Equipment

(b) *Groups.* Within each category, items are arranged by group. Each category contains the same five groups. Each Group is identified by the letters A through E, as follows:

- A—Equipment, Assemblies and Components
- B—Test, Inspection and Production Equipment
- C—Materials
- D—Software
- E—Technology

(c) *Order of review.* In order to classify your item against the CCL, you should begin with a review of the general characteristics of your item. This will usually guide you to the appropriate category on the CCL. Once the appropriate category is identified, you should match the particular characteristics and functions of your item to a specific ECCN. If the ECCN contains a list under the “Items” heading, you should review the list to determine within which subparagraph(s) your items are identified.

(d) *Entries.* (1) *Composition of an entry.* Within each group, individual items are identified by an Export Control Classification Number (ECCN). Each number consists of a set of digits and a letter. The first digit identifies the general category within which the entry falls (e.g., 3A001). The letter immediately following this first digit identifies under which of the five groups the item is listed (e.g., 3A001). The second digit differentiates individual entries by identifying the type of controls associated with the items contained in the entry (e.g., 3A001). Listed below are the Reasons for Control associated with this second digit.

- 0: National Security reasons (including Dual Use and International Munitions List) and Items on the NSG Dual Use Annex and Trigger List
- 1: Missile Technology reasons
- 2: Nuclear Nonproliferation reasons
- 3: Chemical & Biological Weapons reasons
- 9: Anti-terrorism, Crime Control, Regional Stability, Short Supply, UN Sanctions, etc.

(i) Since Reasons for Control are not mutually exclusive, numbers are assigned in order of precedence. As an example, if an item is controlled for both National Security and Missile Technology reasons, the entry’s third digit will be a “0”. If the item is controlled only for Missile Technology the third digit will be “1”.

(ii) The numbers in either the second or third digit (e.g., 3A001) serve to differentiate between multilateral and unilateral entries. An entry with the number “9” as the second digit, identifies the entire entry as controlled for a unilateral concern (e.g., 2B991 for anti-terrorism reasons). If the number “9” appears as the third digit, the item is

controlled for unilateral purposes based on a proliferation concern (e.g., 2A292 is controlled for unilateral purposes based on nuclear nonproliferation concerns).

(iii) The last digit within each entry (e.g., 3A001) is used for the sequential numbering of ECCNs to differentiate between entries on the CCL.

(2) *Reading an ECCN.* A brief description is provided next to each ECCN. Following this description is the actual entry containing “License Requirements,” “License Exceptions,” and “List of Items Controlled” sections. A brief description of each section and its use follows:

(i) *License Requirements.* This section contains a separate line identifying all possible Reasons for Control in order of precedence, and two columns entitled “Control(s)” and “Country Chart”.

(A) The “Controls” header identifies all applicable Reasons for Control, in order of restrictiveness, and to what extent each applies (e.g., to the entire entry or only to certain subparagraphs). Those requiring licenses for a larger number of countries and/or items are listed first. As you read down the list the number of countries and/or items requiring a license declines. Since Reasons for Control are not mutually exclusive, items controlled within a particular ECCN may be controlled for more than one reason. The following is a list of all possible Reasons for Control:

- AT Anti-Terrorism
- CB Chemical & Biological Weapons
- CC Crime Control
- EI Encryption Items
- MT Missile Technology
- NS National Security
- NP Nuclear Nonproliferation
- RS Regional Stability
- SS Short Supply
- XP Computers
- SI Significant Items

(B) The “Country Chart” header identifies, for each applicable Reason for Control, a column name and number (e.g., CB Column 1). These column identifiers are used to direct you from the CCL to the appropriate column identifying the countries requiring a license. Consult part 742 of the EAR for an indepth discussion of the licensing requirements and policies applicable to each Country Chart column.

(ii) *License Exceptions.* This section provides a brief eligibility statement for each ECCN-driven License Exception that may be applicable to your transaction, and should be consulted only AFTER you have determined a license is required based on an analysis of the entry and the Country Chart. The brief eligibility statement in this section is provided to assist you in deciding which ECCN-driven License Exception related to your particular item and destination you should explore prior to submitting an application. The term “Yes” (followed in some instances by the scope of Yes) appears next to each available ECCN-driven License Exception. The term “N/A” will be noted for License Exceptions that are not available within a particular entry. If one or more License Exceptions appear to apply to your transaction, you must consult part 740 of the EAR to review the conditions and restrictions applicable to each available License Exception. The list of License Exceptions contained within each ECCN is not an all-exclusive list. Other License Exceptions, not based on particular ECCNs, may be available. Consult part 740 of the EAR to determine eligibility for non-ECCN-driven License Exceptions.

(iii) *List of Items Controlled—(A) Units.* The unit of measure applicable to each entry is identified in the “Units” header. Most measurements used in the CCL are expressed in metric units with an inch-pound conversion where appropriate. Note that in some ECCNs the inch-pound unit will be listed first. In instances where other units are in general usage or specified by law, these will be used instead of metric. Generally, when there is a difference between the metric and inch-pound figures, the metric standard will be used for classification and licensing purposes.

(B) *Related definitions.* This header identifies, where appropriate, definitions or parameters that apply to all items controlled by the entry. The information provided in this section is unique to the entry, and hence not listed in the definitions contained in part 772 of the EAR.

(C) *Related controls.* If another U.S. government agency or department has

export licensing authority over items related to those controlled by an entry, a statement is included identifying the agency or department along with the applicable regulatory cite. An additional cross-reference may be included in instances where the scope of controls differs between a CCL entry and its corresponding entry on list maintained by the European Union. This information is provided to assist readers who use both lists.

(D) *Items.* This header contains a positive list of all items controlled by a particular entry and must be reviewed to determine whether your item is controlled by that entry. In some entries, the list is contained within the entry heading. In these entries a note is included to direct you to the entry heading.

[61 FR 112756, Mar. 25, 1996, as amended at 61 FR 68579, Dec. 30, 1996; 62 FR 25456, May 9, 1997]

§ 738.3 Commerce Country Chart structure.

(a) *Scope.* The Commerce Country Chart (Country Chart) allows you to determine, based on the Reason(s) for Control associated with your item, if you need a license to export or re-export your item to a particular destination. There are only two instances where the chart cannot be used for this purpose:

(1) *Items controlled for short supply reasons.* Due to the unique nature of these controls, entries controlled for Short Supply reasons will send you directly to part 754 of the EAR. Part 754 of the EAR is self-contained and includes information on licensing requirements, licensing policies, and all available License Exceptions, for items controlled for Short Supply reasons.

(2) *Unique entries.* The following are unique entries where you do not need to consult the Country Chart to determine whether a license is required.

(i) *ECCNs 0A983 and 5A980.* A license is required for all destinations of items controlled under these entries. No License Exceptions apply. If your item is controlled by 0A983 or 5A980 you should proceed directly to part 748 of the EAR for license application instructions and

§ 742.11 or § 742.13 of the EAR for information on the licensing policy relevant to these types of applications.

(ii) *ECCNs 0A986, 0A988, 0B986, 1A005, 2A994, 2D994, and 2E994.* A license is required for items controlled under these entries only to the specific countries identified within each entry.

(b) *Countries.* The first column of the Country Chart lists all countries in alphabetical order. There are a number of destinations that are not listed in the Country Chart contained in Supplement No. 1 to part 738. If your destination is not listed on the Country Chart and such destination is a territory, possession, or department of a country included on the Country Chart, the EAR accords your destination the same licensing treatment as the country of which it is a territory, possession, or department. For example, if your destination is the Cayman Islands, a dependent territory of the United Kingdom, consult the United Kingdom on the Country Chart for licensing requirements.

(c) *Columns.* Stretching out to the right are horizontal headers identifying the various Reasons for Control. Under each Reason for Control header are diagonal column identifiers capping individual columns. Each column identifier consists of the two letter Reason for Control and a column number. (e.g., CB Column 1). The column identifiers correspond to those listed in the "Country Chart" header within the "License Requirements" section of each ECCN.

(d) *Cells.* The symbol "X" is used to denote licensing requirements on the Country Chart. If an "X" appears in a particular cell, transactions subject to that particular Reason for Control/Destination combination require a license. There is a direct correlation between the number of "X"s applicable to your transaction and the number of licensing reviews your application will undergo.

[61 FR 12756, Mar. 25, 1996, as amended at 63 FR 42228, Aug. 7, 1998]

§ 738.4 Determining whether a license is required.

(a) *Using the CCL and the Country Chart—(1) Overview.* Once you have determined that your item is controlled

by a specific ECCN, you must use information contained in the "License Requirements" section of that ECCN in combination with the Country Chart to decide whether a license is required.

(2) *License decision making process.* The following decision making process must be followed in order to determine whether a license is required to export or reexport a particular item to a specific destination:

(i) *Examine the appropriate ECCN in the CCL.* Is the item you intend to export or reexport controlled for a single Reason for Control?

(A) If yes, identify the single Reason for Control and the relevant Country Chart column identifier (e.g., CB Column 1).

(B) If no, identify the Country Chart column identifier for each applicable Reason for Control (e.g., NS Column 1, NP Column 1, etc.).

(ii) *Review the Country Chart.* With each of the applicable Country Chart Column identifiers noted, turn to the Country Chart (Supplement No. 1 to part 738). Locate the correct Country Chart column identifier on the diagonal headings, and determine whether an "X" is marked in the cell next to the country in question for each Country Chart column identified in the applicable ECCN. If your item is subject to more than one reason for control, repeat this step using each unique Country Chart column identifier.

(A) If yes, a license application must be submitted based on the particular reason for control and destination, unless a License Exception applies. If "Yes" is noted next to any of the listed License Exceptions, you should consult part 740 of the EAR to determine whether you can use any of the available ECCN-driven License Exceptions to effect your shipment, rather than applying for a license. Each affirmative license requirement must be overcome by a License Exception. If you are unable to qualify for a License Exception based on each license requirement noted on the Country Chart, you must apply for a license. Note that other License Exceptions, not related to the CCL, may also apply to your transaction (See part 740 of the EAR).

(B) If no, a license is not required based on the particular reason for control and destination. Provided General Prohibitions Four through Ten do not apply to your proposed transaction, you may effect your shipment using the symbol “NLR”. Proceed to parts 758 and 762 of the EAR for information on export clearance procedures and recordkeeping requirements. Note that although you may stop after determining a license is required based on the first Reason for Control, it is best to work through each applicable Reason for Control. A full analysis of every possible licensing requirement based on each applicable Reason for Control is required to determine the most advantageous License Exception available for your particular transaction and, if a license is required, ascertain the scope of review conducted by BXA on your license application.

(b) *Sample analysis using the CCL and Country Chart*—(1) *Scope*. The following sample entry and related analysis is provided to illustrate the type of thought process you must complete in order to determine whether a license is required to export or reexport a particular item to a specific destination using the CCL in combination with the Country Chart.

(2) *Sample CCL entry*.

2A000: Entry heading.

LICENSE REQUIREMENTS

Reason for Control: NS, NP, AT

Control(s)	Country Chart
NS applies to entire entry	NS Column 2
NP applies to 2A000.b	NP Column 1
AT applies to entire entry	AT Column 1

LICENSE EXCEPTIONS

LVS: \$5,000

GBS: Yes

CIV: N/A

LIST OF ITEMS CONTROLLED

Unit: Number

Related Definition: N/A

Related Controls: N/A

Items:

a. Having x.

b. Having z.

(3) *Sample analysis*. After consulting the CCL, I determine my item, valued at \$10,000, is classified under ECCN 2A000.a. I read that the entire entry is controlled for national security, and anti-terrorism reasons. Since my item is classified under paragraph .a, and not .b, I understand that though nuclear nonproliferation controls apply to a portion the entry, they do not apply to my item. I note that the appropriate Country Chart column identifiers are NS Column 2 and AT Column 1. Turning to the Country Chart, I locate my specific destination, India, and see that an “X” appears in the NS Column 2 cell for India, but not in the AT Column 1 cell. I understand that a license is required, unless my transaction qualifies for a License Exception or Special Comprehensive License. From the License Exception LVS value listed in the entry, I know immediately that my proposed transaction exceeds the value limitation associated with LVS. Noting that License Exception GBS is “Yes” for this entry, I turn to part 740 of the EAR to review the provisions related to use of GBS.

COMMERCE COUNTRY CHART

Reason for Control

Countries	Chemical & biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Crime control			Anti-terrorism	
	CB column 1	CB column 2	CB column 3	NP column 1	NP column 2	NS column 1	NS column 2	MT column 1	RS column 1	RS column 2	CC column 1	CC column 2	CC column 3	AT column 1	AT column 2
Afghanistan	X	X	X	X		X	X	X	X	X	X	X	X		
Albania	X	X		X		X	X	X	X	X	X				
Algeria	X	X		X		X	X	X	X	X	X				
Andorra	X	X		X		X	X	X	X	X	X				
Angola ¹	X	X		X		X	X	X	X	X	X				
Antigua & Barbuda	X	X		X		X	X	X	X	X	X				
Argentina	X	X		X		X	X	X	X	X	X				
Armenia	X	X		X		X	X	X	X	X	X				
Australia	X	X		X		X	X	X	X	X	X				
Austria	X	X		X		X	X	X	X	X	X				
Azerbaijan	X	X		X		X	X	X	X	X	X				
Bahamas, The	X	X		X		X	X	X	X	X	X				
Bahrain	X	X		X		X	X	X	X	X	X				
Bangladesh	X	X		X		X	X	X	X	X	X				
Barbados	X	X		X		X	X	X	X	X	X				
Belarus	X	X		X		X	X	X	X	X	X				
Belgium	X	X		X		X	X	X	X	X	X				
Belize	X	X		X		X	X	X	X	X	X				
Benin	X	X		X		X	X	X	X	X	X				
Bhutan	X	X		X		X	X	X	X	X	X				
Bolivia	X	X		X		X	X	X	X	X	X				
Bosnia & Herzegovina	X	X		X		X	X	X	X	X	X				
Botswana	X	X		X		X	X	X	X	X	X				
Brazil	X	X		X		X	X	X	X	X	X				
Brunei	X	X		X		X	X	X	X	X	X				
Bulgaria	X	X		X		X	X	X	X	X	X				
Burkina Faso	X	X		X		X	X	X	X	X	X				
Burma	X	X		X		X	X	X	X	X	X				
Burundi	X	X		X		X	X	X	X	X	X				
Cambodia	X	X		X		X	X	X	X	X	X				
Cameroon	X	X		X		X	X	X	X	X	X				
Canada	X	X		X		X	X	X	X	X	X				
Cape Verde	X	X		X		X	X	X	X	X	X				

COMMERCE COUNTRY CHART—Continued

Reason for Control

Countries	Chemical & biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Crime control			Anti-terrorism	
	CB column	CB column	CB column	NP column	NP column	NS column	NS column	MT column	RS column	RS column	CC column	CC column	CC column	AT column	AT column
Central African Republic	X			X		X	X	X	X	X	X		X		
Chad	X	X		X		X	X	X	X	X	X		X		
Chile	X	X		X		X	X	X	X	X	X		X		
China	X	X	X	X		X	X	X	X	X	X		X		
Colombia	X	X		X		X	X	X	X	X	X		X		
Comoros	X	X		X		X	X	X	X	X	X		X		
Congo	X	X		X		X	X	X	X	X	X		X		
Costa Rica	X	X		X		X	X	X	X	X	X		X		
Cote d'Ivoire	X	X		X		X	X	X	X	X	X		X		
Croatia	X	X		X		X	X	X	X	X	X		X		
Cuba	See part 746 of the EAR to determine whether a license is required in order to export or reexport to this destination.														
Cyprus	X			X		X	X	X	X	X	X		X		
Czech Republic	X			X		X	X	X	X	X	X		X		
Denmark	X			X		X	X	X	X	X	X		X		
Djibouti	X	X		X		X	X	X	X	X	X		X		
Dominica	X	X		X		X	X	X	X	X	X		X		
Dominican Republic	X	X		X		X	X	X	X	X	X		X		
Ecuador	X	X		X		X	X	X	X	X	X		X		
Egypt	X	X	X	X		X	X	X	X	X	X		X		
El Salvador	X	X		X		X	X	X	X	X	X		X		
Equatorial Guinea	X	X		X		X	X	X	X	X	X		X		
Eritrea	X	X		X		X	X	X	X	X	X		X		
Estonia	X	X		X		X	X	X	X	X	X		X		
Ethiopia	X	X		X		X	X	X	X	X	X		X		
Fiji	X	X		X		X	X	X	X	X	X		X		
Finland	X			X		X	X	X	X	X	X		X		
France	X			X		X	X	X	X	X	X		X		
Gabon	X	X		X		X	X	X	X	X	X		X		
Gambia, The	X	X		X		X	X	X	X	X	X		X		
Georgia	X	X	X	X		X	X	X	X	X	X		X		
Germany	X	X		X		X	X	X	X	X	X		X		
Ghana	X	X		X		X	X	X	X	X	X		X		
Greece	X			X		X	X	X	X	X	X		X		

151

COMMERCE COUNTRY CHART—Continued

Reason for Control

Countries	Chemical & biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Crime control			Anti-terrorism	
	CB column 1	CB column 2	CB column 3	NP column 1	NP column 2	NS column 1	NS column 2	MT column 1	RS column 1	RS column 2	CC column 1	CC column 2	CC column 3	AT column 1	AT column 2
Mauritania	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Mauritius	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Mexico	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Micronesia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Moldova	X	X	X	X	.....	X	X	X	X	X	X	X	.....	.....	.....
Monaco	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Mongolia	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Morocco	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Mozambique	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Namibia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Nauru	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Nepal	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Netherlands	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
New Zealand	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Nicaragua	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Niger	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Nigeria	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Norway	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Oman	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Pakistan	X	X	X	X	X	X	X	X	X	X	X	.....	X	.....	.....
Palau	X	X	X	X	X	X	X	X	X	X	X	.....	X	.....	.....
Panama	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Papua New Guinea	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Paraguay	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Peru	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Philippines	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Poland	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Portugal	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Qatar	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Romania	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Russia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Rwanda ¹	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
St. Kitts & Nevis	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....

Pt. 738, Supp. 1

153

COMMERCE COUNTRY CHART—Continued

Reason for Control

Countries	Chemical & biological weapons			Nuclear non-proliferation		National security		Missile tech	Regional stability		Crime control			Anti-terrorism	
	CB column 1	CB column 2	CB column 3	NP column 1	NP column 2	NS column 1	NS column 2	MT column 1	RS column 1	RS column 2	CC column 1	CC column 2	CC column 3	AT column 1	AT column 2
Western Sahara	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Western Samoa	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Yemen	X	X	X	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Zaire	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Zambia	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....
Zimbabwe	X	X	.....	X	.....	X	X	X	X	X	X	.....	X	.....	.....

¹This country is subject to United Nations Sanctions. See part 746 of the EAR for additional OFAC licensing requirements that may apply to your proposed transaction.

²A license is required only for computers controlled by 4A001, 4A002, & 4A003 if the CTP is greater than 10,000 Mtops. A license is NOT required for any other items subject to NS Column 2.

[62 FR 6683, Feb. 12, 1997; 62 FR 31473, June 9, 1997, as amended at 62 FR 42048, Aug. 5, 1997]